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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,973	06/29/2001	Steven M. French	AUS920010541US1	9260
7590	10/06/2004		EXAMINER	
Frank c. Nicholas CARDINAL LAW GROUP Suite 2000 1603 Orrington Avenue Eavnston, IL 60201			PITARO, RYAN F	
			ART UNIT	PAPER NUMBER
			2174	
DATE MAILED: 10/06/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/895,973

Applicant(s)

FRENCH ET AL.

Examiner

Ryan F Pitaro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 1-36 have been examined.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 10 recites the limitation "the boot difference command" in line 3 of claim 10. There is insufficient antecedent basis for this limitation in the claim. Claim 10 should be changed to depend on claim 7.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3,5,11,13-15,17,23,25-27,29,35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakadai ("Nakadai", US# 5,794,031) in view of Kozaki et al ("Kozaki", US# 5,828,888).

As per independent claim 1, Nakadai discloses a method of managing booting of a plurality of target devices in communication with a network (Column 2 lines 40-45), comprising:

Receiving, at a server in communication with the network, a request from at least one target device in a pre-boot stage (Column 2 lines 43-45);

Assigning a current boot category to the target device, the current boot category based on the pre-boot stage of the target device (Column 3 lines 10-15);

Nakadai fails to disclose a boot list with boot categories. However Kozaki teaches generating a current boot list of target devices with corresponding current boot categories (Column 5 lines 40-43); and managing booting of the target devices using the current boot list (Column 5 lines 40-43; *queue*). Therefore it would have been obvious to an artisan at the time of the invention to combine Nakadai's method of managing booting with Kozaki's teaching of a list structure. Motivation to do so would have been to maintain an organized way of booting the target devices.

As per claim 2, which is dependent on claim 1, Nakadai fails to distinctly point out commands with the devices. However, Kozaki teaches associating at least one command with the target device, the command based on the current boot category (Column 5 lines 26-37; *category is sent, status is changed, then boot is executed*). Therefore it would have been obvious to an artisan at the time of the invention to combine Nakadai's method of managing booting with Kozaki's teaching of a list structure. Motivation to do so would have been to be able to further manage the list of devices.

As per claim 3, which is dependent on claim 2, Nakadai fails to distinctly point out executing the command. However, Kozaki teaches executing the command at the target device (Column 5 lines 34-36). Therefore it would have been obvious to an artisan at

the time of the invention to combine Nakadai's method of managing booting with Kozaki's teaching of a list structure. Motivation to do so would have been to be able to further manage the list of devices.

As per claim 5, which is dependent on claim 2, Nakadai fails to distinctly point out updating the status of the device. However, Kozaki teaches updating the current boot category of the target device based on the command (Column 5 lines 40-43). Therefore it would have been obvious to an artisan at the time of the invention to combine Nakadai's method of managing booting with Kozaki's teaching of a list structure. Motivation to do so would have been for organizational purposes of managing the list.

As per claim 11, which is dependent on claim 1, Nakadai fails to distinctly point out storing the current boot list. However, Kozaki teaches storing the boot list (Figure 1, element 30; *in secondary memory 10b*). Therefore it would have been obvious to an artisan at the time of the invention to combine Nakadai's method of managing booting with Kozaki's teaching of a list structure. Motivation to do so would have been to prevent any loss of information while managing the list.

Claims 13 and 25 are similar to scope to claim 1, and are therefore rejected under similar rationale.

Claims 14 and 26 are similar to scope to claim 2, and are therefore rejected under similar rationale.

Claims 15 and 27 are similar to scope to claim 3, and are therefore rejected under similar rationale.

Claims 17 and 29 are similar to scope to claim 5, and are therefore rejected under similar rationale.

Claims 23 and 35 are similar to scope to claim 11, and are therefore rejected under similar rationale.

6. Claims 4,16,28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakadai ("Nakadai", US# 5,794,031) in view of Kozaki et al ("Kozaki", US# 5,828,888) in further view of Suffin ("Suffin", US# 6,691,225).

As per claim 4, which is dependent on claim 2, Nakadai and Kozaki fail to distinctly point out generating a command list and executing from the command list. However, Suffin teaches a method comprising generating a command list comprising the command for the target device (Figure 5A elements 56,58,60,62); and selecting the command to be executed at the target device from the command list (Column 8 lines 65-67). Therefore it would have been obvious to an artisan at the time of the invention to combine the modified Nakadai and Suffin's teaching. Motivation to do so would have been for organizational purposes.

Claims 16 and 28 are similar to scope to claim 4, and are therefore rejected under similar rationale.

7. Claims 6-8,10,12,18-20,22,24,30-32,34,36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakadai ("Nakadai", US# 5,794,031) in view of Kozaki et al ("Kozaki", US# 5,828,888) in further view of Sakanishi ("Sakanishi", US# 6,678,888).

As per claim 6, which is dependent on claim 1, Nakadai and Kozaki fail to distinctly point out comparing the list to find a difference list. However, Sakanishi together with the modified Nakadai teaches comparing the current boot category of the target device to a predetermined expected boot category of the target device to determine a boot difference between the expected boot category and the current boot category (Column 11 lines 64-67, Column 12 lines 1-4); and generating a boot difference list comprising target devices with corresponding differences (Column 12 lines 53-58). Therefore it would have been obvious to an artisan at the time of the invention to combine the modified Nakadai and Sakanishi's teaching. Motivation to do so would have been to keep an updated status of the list for further managing purposes.

As per claim 7, which is dependent on claim 6, Sakanishi together with the modified Nakadai teaches associating at least one boot difference (Sakanishi, Column 12 lines 53-58). command with the target device, the boot difference command based on the difference (Kozaki, Column 5 lines 26-37; *category is sent, status is changed, then boot is executed*).

As per claim 8, which is dependent on claim 7, Sakanishi together with the modified Nakadai teaches executing the boot difference (Sakanishi, Column 12 lines 53-58) command at the target device (Kozaki, Column 5 lines 34-36).

As per claim 10, which is dependent on claim 7, Sakanishi together with the modified Nakadai teaches updating the current boot category of the target device



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(Kozaki, Column 5 lines 40-43) based on the boot difference command (Sakanishi, Column 12 lines 53-58).

As per claim 12, which is dependent on claim 6, Sakanishi together with the modified Nakadai teaches storing (Kozaki, Figure 1, element 30; *in secondary memory 10b*) the boot difference list (Sakanishi, Column 12 lines 53-58).

Claims 18 and 30 are similar to scope to claim 6, and are therefore rejected under similar rationale.

Claims 19 and 31 are similar to scope to claim 7, and are therefore rejected under similar rationale.

Claims 20 and 32 are similar to scope to claim 8, and are therefore rejected under similar rationale.

Claims 22 and 34 are similar to scope to claim 10, and are therefore rejected under similar rationale.

Claims 24 and 36 are similar to scope to claim 12, and are therefore rejected under similar rationale.

8. Claims 9,21,33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakadai ("Nakadai", US# 5,794,031) in view of Kozaki et al ("Kozaki", US# 5,828,888) in further view of Sakanishi ("Sakanishi", US# 6,678,888) and in further view of Suffin ("Suffin", US# 6,691,225).

As per claim 4, which is dependent on claim 2, Nakadai, Kozaki, and Sakanishi fail to distinctly point out generating a boot difference command list and executing from the boot difference command list. However, Suffin teaches a method comprising generating a boot difference command list comprising the boot difference command for the target device (Figure 5A elements 56,58,60,62); and selecting the boot difference command to be executed at the target device from the boot difference command list (Column 8 lines 65-67). Therefore it would have been obvious to an artisan at the time of the invention to combine the modified Nakadai and Suffin's teaching. Motivation to do so would have been for organizational purposes.

Claims 21 and 33 are similar to scope to claim 9, and are therefore rejected under similar rationale

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Pitaro whose telephone number is (703) 605-1205. The examiner can normally be reached on 7:00am - 4:30pm Monday through Thursday, and every other Friday. The Patent Office is moving, after mid October the new telephone number where Ryan Pitaro can be reached is (571) 272 – 4071.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 703-308-0640. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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